IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

Crl.MC.No. 1989 of 2007()

CC.617/2001 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II,PATHANAMTHITTA

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PETITIONER: 4TH ACCUSED

MANJU MATHEW, (WRONGLY DESCRIBED AS MANJU THOMAS IN FIR), KUNNAMPALLIL IYRAKAVU, PULLAD, KURUNGAZHA, PATHANAMTHITTA.

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1989 of 2007

Dated this the 21st day of June 2007

O R D E R

The petitioner faces indictment for offences punishable inter alia under Section 307 I.P.C. Cognizance has been taken. The case has been registered. The case is now refiled as C.C.No.392/2006 (earlier the case number was C.C.No.617/01) The petitioner during the final stage of the case did not appear before the learned Magistrate. He had to go to his place of employment abroad. The learned Magistrate has issued a warrant of arrest to secure the presence of the petitioner. The petitioner finds himself in the uneasy predicament of a warrant of arrest chasing him.

2. The learned counsel for the petitioner submits that the petitioner is willing to surrender before the learned Magistrate. But the petitioner apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate.

4. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

5. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are compelling reasons.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007